



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/552,431

10/05/2005

Reiner Hannen

23386

8948

535 7590 06/06/2008

K.F. ROSS P.C.

5683 RIVERDALE AVENUE

SUITE 203 BOX 900

BRONX, NY 10471-0900

EXAMINER

ADAMS, GREGORY W

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

06/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,431	Applicant(s) HANNEN ET AL.	
	Examiner GREGORY W. ADAMS	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 14-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wachter (US 6,290,452) in view of Pizzi (US 6,386,824) and further in view of Newsome et al. (US 6,231,299).

Wachter discloses-

- a stabilizing element 21, 21 shiftable horizontally (FIG. 1: 23) toward and away from a substrate edge (7, 108 or 1);
- a member on an element engageable under a stack; and
- means 21, 22 for shifting an element horizontally toward a stack and fitting a member under projecting sheets to support same while without vertically bending or deflecting the sheets.

Art Unit: 3652

“Substrate” is a generic term for underlying area. www.dictionary.com. In that respect, Wachter’s conveyor 1 is clearly underlying inasmuch as it transports a stack until stabilizing elements 21 are shifted horizontally (C6/L39-41).

Wachter does not disclose a slip-preventing, elastomer layer. Wachter discloses in FIG. 4 aligning sheet edges with elements and does not disclose means for horizontal shifting of elements which includes pushing projecting sheets inward on a substrate to a position lying on or inward of an outer edge without vertically bending or deflecting sheets. Pizzi discloses means (C5/L61-67) for shifting an element 34, 35 horizontally toward a stack while pushing projecting sheets inward on a substrate 2 to a position lying on or inward of an outer edge without vertically bending or deflecting sheets. Pizzi teaches that aligning using side stabilizer elements keeps all edge faces of each stack layer from damage, i.e. set back from a pallet edge. C1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Wachter to operate Wachter's means to push projecting sheets, as per the teachings of Pizzi, to keep stack edges safely within the outer perimeter of a substrate, e.g. pallet, perimeter, for purposes of damage prevention.

Newsome et al. disclose stabilizing elements that shift horizontally comprising soft foam rubber layer 21, 22, one version of elastomer (www.dictionary.com). Newsome et al. teaches that this “construction permits the outer periphery to be readily deflectable, as is seen in FIG. 4, so as to firmly engage the stacks of documents passing through the gate without damaging the stacks. Also, the resilient rolls act to laterally align the documents in the stacks as they pass through the gate. Each roll

Art Unit: 3652

typically has a diameter of about 4 inches and a height of about 10 inches.” C4/L6.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Wachter to include a layer of elastomer, as per the teachings of Newsome et al., to prevent damage to stacks.

Response to Arguments

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3652

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY W. ADAMS whose telephone number is (571)272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art
Unit 3652

/G. W. A./
Primary Examiner, Art Unit 3652